FILE COPY.

Office Supreme Court, U.
FILED.
NOV 6 190.
JAMES H. McKENNEY,
CLERK

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 123.

A. B. BALLARD ET AL., PLAINTIFFS IN ERROR,

vs.

CHARLES W. HUNTER ET AL.

SUGGESTION OF DIMINUTION OF THE RECORD AND MOTION FOR A WRIT OF CERTIORARI.

L. P. BERRY,
Counsel for Defendant in Error, Charles W. Hunter.

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C. 23769

(19,917.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 123.

A. B. BALLARD AND JOSEPHINE W. BALLARD,
PLAINTIFFS IN ERROR,

vs.

CHARLES W. HUNTER, A. HACKLER, AND BOARD OF DIRECTORS OF THE ST. FRANCIS LEVEE DISTRICT, RESPONDENTS IN ERROR.

Petition and Exhibit In Re Certiorari for Diminution of Record.

To the Honorable Justices of the Supreme Court of the United States:

Charles W. Hunter, one of the respondents in error above named, respectfully shows to the court that the record in this cause certified up by the clerk of the Supreme Court of the State of Arkansas is incomplete in this, to wit: That there is omitted from said transcript a certain writ of certiorari for diminution of the record and the return thereto made by the clerk of the chancery court of Crittenden county, Arkansas; which said writ of certiorari and return thereto annexed, so made as above, is of record in said Supreme Court of the State of Arkansas. A certified copy of the said writ of

certiorari for diminution of the record and the return thereto annexed is made a part of this petition and hereto attached and marked Exhibit "A."

Wherefore the respondent in error prays that a writ of certiorari for diminution of the record be issued and directed to the judges of the said Supreme Court of the State of Arkansas, commanding them that, searching the records and proceedings in said cause, they forthwith certify to this court the parts of said records so omitted as aforesaid.

CHARLES W. HUNTER, *Petitioner,*
By L. P. BERRY,
Counsel for Petitioner.

STATE OF ARKANSAS, *County of Crittenden, ss:*

L. P. Berry says that he is one of the counsel for the above-named petitioner; that he has read the foregoing petition and knows that the facts therein stated are true.

L. P. BERRY,
Counsel for Petitioner.

Subscribed and sworn to before me this October 18, 1906.
[SEAL.] R. J. SOUTHALL,
Notary Public.

My commission expires November 28, 1907.

Exhibit "A" to Petition.

Certiorari and Return.

No. 5062.

STATE OF ARKANSAS, *In the Supreme Court, ss:*

The State of Arkansas to the clerk of the Chancery Court of Crittenden county, Greeting:

Whereas, in a case pending in the Supreme Court of the State of Arkansas, wherein A. B. Ballard *et al.* are appellants and Chas. W. Hunter *et al.* are appellees, it has been suggested by said appellees that there is a diminution of the record filed in this case, in this: the lands in the record of said cause are not properly described in the copy of the complaint and decree rendered in said cause, with a prayer that the record be amended; you are therefore hereby commanded that you certify to our Supreme Court, without delay, a full, true and complete transcript of the record of said circuit court, so as above suggested to be diminished; that our Supreme Court, upon consideration of a complete record, may cause to be done therein what should be done. Hereof fail not and make due return of this writ under your official seal.

In testimony whereof, I, P. D. English, clerk of said Supreme Court, hereto set my hand, at the city of Little Rock, and affix the seal of said court this 28th day of January, 1905.

[L. S.] P. D. ENGLISH, *Clerk.*

Return.

The lands in the original record, a transcript of which has been filed in this cause, are correctly described in said transcript, except that the said transcript should show that the W. ½ and S. E. ¼ of Sec. 32, T. 4 N., R. 7 E., was described

and proceeded against both in the complaint and decree under the description W. ½ and S. E. ¼, Sec. 32, T. 4 N., R. 7 E., and not, as erroneously described in said transcript, as W. ½ S. E. ¼, Sec. 32, T. 4 N., R. 7 E., 480 acres.

Attest with seal this 2d Feb'y, 1905.

[L. S.] LOUIS BARTON, *Clerk.*

STATE OF ARKANSAS, *County of Crittenden, ss:*

I, Lewis Barton, clerk of the circuit court of said county, hereby certify that I have made out and certified a full, true and complete transcript of the diminution suggested, which is hereto endorsed.

In testimony whereof, I hereto set my hand as clerk and affix the seal of said circuit court this 2d day of February, A. D. 1905.

[L. S.] LOUIS BARTON, *Clerk.*

Endorsed: Filed February 4, 1905. P. D. English, clerk.

In testimony that the above is a true copy of the certiorari and return thereto in the case therein stated, said certiorari and return having been lost when the original transcript of the record in said cause was prepared and sent to the Supreme Court of the United States on writ of error and since found,

I, Peyton D. English, clerk of said Supreme Court, hereby set my hand and affix the seal of said court at the city of Little Rock, the capital of said State, this the 16th day of October, A. D. 1906.

[SEAL.] PEYTON D. ENGLISH, *Clerk.*

Clerk's fee, $2.00, paid by Berry & Schafer, attorneys.
P. D. ENGLISH, *Clerk.*

Endorsed: No. 5062. Ballard *et al. vs.* Hunter *et al.* Certiorari and return. Filed February 4th, 1906. P. D. English, clerk.

IN THE SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 123.

A. B. BALLARD and JOSEPHINE W. BALLARD, *Plaintiffs in Error,*

vs.

CHARLES W. HUNTER, A. HACKLER, and BOARD OF DIRECTORS ST. FRANCIS LEVEE DISTRICT, *Respondents in Error.*

Motion for Certiorari.

Comes now Charles W. Hunter, one of the respondents in error in the above-entitled cause, by his counsel, L. P. Berry, Esq., and suggests diminution of the record in this cause in this, to wit:

That a certain writ of certiorari for diminution of the record and the return thereto made by the clerk of the chancery court of Crittenden county, Arkansas, of record in the said Supreme Court of the State of Arkansas, is omitted from the transcript of the record filed in this cause in this court.

Wherefore the said defendant in error moves the court, under rule 14 of the rules of this court, to award a writ of certiorari, to be issued and directed to the judges of the said Supreme Court of the State of Arkansas, commanding them that, searching the records and proceedings in said cause, they forthwith certify to this court those parts of the said records so omitted as aforesaid.

L. P. BERRY,
Counsel for Defendant in Error.

Dated October 31, 1906.

IN THE SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 123.

A. B. BALLARD and JOSEPHINE W. BALLARD, *Plaintiffs in Error,*

vs.

CHARLES W. HUNTER, A. HACKLER, and BOARD OF DIRECTORS ST. FRANCIS LEVEE DISTRICT, *Respondents in Error.*

Notice of Motion.

To WM. M. RANDOLPH, GEO. RANDOLPH, and WASSELL RANDOLPH, *Counsel for Plaintiffs in Error:*

Please take notice that on the 12th day of November, 1906, at the opening of court on that day, or as soon thereafter as counsel can be heard, the motion of Charles W. Hunter, one of the defendants in error in the above-entitled cause, for a writ of certiorari for diminution of the record, a copy of which said motion is hereto attached, will be submitted to the Supreme Court of the United States for the decision of the court thereon.

L. P. BERRY,
Counsel for Defendant in Error.

Dated October 31, 1906.

Due service of the attached petition, affidavit, motion and notice is hereby admitted this 2d day of November, 1906.

RANDOLPH & RANDOLPH,
Counsel for Plaintiffs in Error.

[Endorsed:] No. 123. A. B. Ballard *et al.*, pl't'fs in error, *vs.* Chas. W. Hunter *et al.*, def's in error. In error to the Supreme Court of Arkansas. Petition, affidavit, motion, and notice of application for certiorari for diminution of the record.